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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,633

07/06/2007

Omer Einav

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67801 7590 05/14/2012  
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EXAMINER

THANH, QUANG D

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

05/14/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/597,633	EINAV ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quang D. Thanh	3771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 27-67 is/are pending in the application.
- 5a) Of the above claim(s) 27-41 and 43-50 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 42 and 51-67 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-302)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. This office action is responsive to the amendment filed on 02/15/2012. As directed by the amendment: claim 43 has been amended, no claims has been cancelled nor added. However, amended method claim 43 and its depending claims 27-41 and 42-50 again are directed to a method claim that lacks unity of invention from the apparatus claim because the apparatus as claimed can be used in a materially different process of using that apparatus that does not require engaging first and second actuators by a patient and by a non-therapist, respectively; and rehabilitating said patient using said first actuator and said non-therapist. Accordingly, claims 27-41 and 43-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Thus, claims 42 and 51-67 are presently under consideration in this application.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 42, 51-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horst (US 2004/0102723).
4. Re claim 66, Horst discloses a rehabilitation system configuration, comprising a first rehabilitation device and other like devices (see abstract), the first rehabilitation device is useful in helping someone in every day task of standing, walking, climbing stairs and descending stairs at a first place of rehabilitation using an actuator that includes a movement mechanism capable of applying a force (paragraph 25) adapted to

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interact with a motion of a patient's limb in a volume in at least two degrees of freedom of motion (paragraph 40) of the actuator and capable of preventing substantial motion (resistance) in any point in any direction in said volume; and, a second (other devices, paragraph 12) rehabilitation device at a second place of rehabilitation (during walking) that includes a movement mechanism operable by the patient's limb in at least two degrees of freedom and capable of preventing substantial motion in any point in any direction in said volume. Horst does not explicitly disclose that the movement mechanism is "capable of applying a force that interacts with a motion of a patient's limb in a volume of at least 30 cm in diameter". However, it would be obvious for one skill in the art to design the device such that it would be capable of applying a force that interacts with a motion of a patient's limb in a volume of at least 30 cm in diameter (such as the knee joint) in order to accommodate various types of exercise in different joints.

5. Re claim 42, Horst discloses a wireless data link (paragraphs 46 and 74) between the first rehabilitation device and the second rehabilitation device such that the two rehabilitation devices can act in synchrony (bilateral weaknesses, paragraph 12).

6. Re claims 67, 51-54, Horst discloses a controller (paragraph 46) adapted to control the actuator of the first rehabilitation device in accordance with a program (paragraph 68); the first rehabilitation device at the first place of rehabilitation using a first operational setting; and, the second rehabilitation device at the second place of rehabilitation uses a second operational setting (paragraphs 14-15); wherein the first and second places of rehabilitation are selected from a bed, a wheel-chair (paragraph 64), a clinic, a hospital and a home (paragraph 25); wherein the first operational setting

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includes applying a force that interacts with a motion of a patient's limb in at least three degrees of freedom (paragraph 40, hip and shoulder joints) and the second operational setting includes applying a force that interacts with a motion of a patient's limb in two degrees of freedom (paragraph 40, elbow and knee joints);

7. Re claims 55-57, Horst teaches that the device(s) can be operated in a number of modes: assist mode for enhancing mobility and resist mode for rehab and strength training and that an individual can be fitted with more than one device to assist different muscles and to compensate for weakness in a group of muscles (paragraph 12), thus would suggest that the first operational setting would include a software set and the second operational setting includes having only a portion of the software set ((different modes, paragraph 68); wherein the first operational setting includes having a software set and the second operational setting includes having a different software set (different modes, paragraph 68); wherein the first operational setting includes a set of modes and the second operation setting includes having only a portion of the set of modes; wherein the first rehabilitation device is provided with a first display type and the second rehabilitation device is provided with a different display type (paragraph 46, display panel or lights).

8. Re claims 58-60, Horst teaches that wherein the second rehabilitation device is adapted for the second place of rehabilitation (up and down the stairs at home, paragraph 25); wherein the second rehabilitation device is adapted by providing mobility (paragraph 12); wherein second first rehabilitation device is adapted by changing its

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size relative to the first rehabilitation device(different types of braces with different lengths, paragraph 74).

9. Re claims 61-65, Horst teaches that wherein the first and second rehabilitation devices are connected in a network; wherein the network is provided with a database shared between at least the first and second rehabilitation devices (paragraphs 69-73); wherein the system is adapted to generate a report on the patient from the first and second rehabilitation devices; wherein the first rehabilitation device and the second rehabilitation device are monitored by the same therapist (paragraph 56); wherein the first and second rehabilitation devices are adapted to be used by the same patient (bilateral weaknesses, paragraph 12).

### ***Response to Arguments***

10. Applicant's arguments filed 02/15/2012 have been fully considered but they are not persuasive.

11. In response to applicant's argument that Horst fails to disclose an apparatus that includes an actuator which provides movement in at least two degrees of freedom, the examiner respectfully disagrees. Applicants' attention is directed to Horst's Para. [0040], which clearly teaches that “Joints with ***more than one degree of freedom*** may have a single device to assist/resist the primary direction” and thus the single device is considered as “an actuator” which may include one or more actuators for providing movement in at least two degrees of freedom. It is also noted that Horst's Para. [0041] clearly teaches that during knee extension, the tibia is also rotated and therefore

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suggests that movement in at least two degrees of freedom can be provided by the actuator.

12. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a rehabilitation device that includes a single actuator that provides movement in at least two degrees of freedom) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571)272-4982. The examiner can normally be reached on Monday-Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/  
Primary Examiner, Art Unit 3771